

**UNITED STATES DISTRICT COURT**  
**FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MALIBU MEDIA, LLC,	:	
	Plaintiff	:
vs.	:	NO.: 2:12-CV-02078-MMB
	:	
JOHN DOES 1, 13, 14 AND 16	:	
	Defendant	:

**DEFENDANT, JOHN DOE 16'S REPLY TO PLAINTIFF'S NOTICE COMPLYING**  
**WITH THIS COURT'S ORDER DATED MAY 8, 2013 [CM/ECF 134]**

This acknowledges receipt of Plaintiff's Notice Complying with this Court's Order dated May 8, 2013. In a tradition of filing late Motions requesting relief including those recently after office hours.

On late Friday afternoon, after counsel had left his office, Plaintiff's counsel continues to supplement what is an obvious pattern of attempting to not only wear down Defendant's counsel, but to file documents which are obviously without merit in order to delay the Trial of this Bellwether Case.

Plaintiff's counsel, from day one, has advised this Court that it would need additional time within which to litigate this matter, hoping for a trial date no sooner than September 2013. In another frivolous filing in order to add to prior late filings requesting enlargements of time in order to delay the litigation of this matter, Plaintiff's counsel has not only threatened Defendant, John Doe 16 for alleged fraud but seeks obviously (a) to delay the trial of this matter and (b) intimidate Defendant, John Doe 16 into settling. See **Exhibit "A"**, email message from Plaintiff's Counsel.

In support of same, Plaintiff's counsel recently filed an after hours online Motion for Summary Judgment well after counsel had left his office. See **Exhibit "B"**, Notice of filing from the Court.

Plaintiff's counsel as indicated on late Friday afternoon, May 17, 2013, did contact Defendant's counsel through a subordinate, but was advised to contact him an hour later since I was busy on the phone and conducting other activities at that time. Defense counsel never received any follow-up telephone call.

Plaintiff's counsel recently did have the time to ask for another in a long list of Enlargements of Time in order to file Jury Instructions, of which the Court immediately granted.

Putting aside Plaintiff's counsel's tactics, the Defendant's counsel followed through on a timely basis and shipped the first copy of the hard drive to Plaintiff's counsel on December 27, 2012, with an scheduled delivery date of December 28, 2013, which Plaintiff's counsel indicated he received during the early part of January 2013. See **Exhibit "C"**, FedEx Express Receipt. No complaint was made about the readability until after the date within which Plaintiff's Expert Report was initially due .

After this Honorable Court entered Sanctions against Plaintiff's Counsel, the Court allowed an extension until May 17, 2013, to file any additional report of the examination of the hard drives, if applicable. Defendant, John Doe has no expert nor has he retained an expert and continues to sincerely express his lack of culpability, therefore, there is no applicable report to be submitted. On the other hand, Defendant, John Doe 16 on his laptop computer in my office, on Friday, May 17, 2013, demonstrated to me that not only was he able to open it, but was able to read the hard drive to the extent that his limited knowledge allows.

Since Plaintiff's counsel sent mixed messages on page 1 of this Notice, regarding the readability of the hard drive on their Notice of Compliance, it is unequivocally obvious that there is an issue regarding same and in accordance with the previously indicated Court Order dated May 8, 2013, Page 5 ¶4, an evidentiary hearing is not only needed and required, but urgently necessary in order to address all matters regarding same, in light of Plaintiff counsel's blustery, threatening and chilling Motion for Sanctions against Defendant, John Doe 16 for alleged fraud, which he has indicated will be filed immediately.

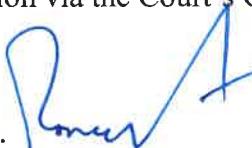
Respectfully submitted,



RONALD A. SMITH, ESQUIRE  
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**CERTIFICATE OF SERVICE**

I, RONALD A. SMITH, ESQUIRE, hereby certify that on this 20<sup>th</sup> day of May, 2013, a true and correct copy of the foregoing was filed with the Clerk of Court using the CM/ECF and all parties have received or will receive notification via the Court's CM/ECF electronic filing.

BY: 

RONALD A. SMITH, ESQUIRE

**Ronald A Smith Esquire**

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**From:** "Keith Lipscomb" <KLipscomb@LEBFIRM.COM>  
**To:** "Crystal Sebastian" <CSebastian@LEBFIRM.COM>; <RonaldASmithEsq@aol.com>  
**Cc:** "copyright" <copyright@LEBFIRM.COM>; <cfiore@fiorebarber.com>  
**Sent:** Friday, May 17, 2013 4:12 PM  
**Subject:** Re: Bellwether - Malibu Media, LLC v. Does 1, 6, 13, 14, 16  
  
Ronald,

Following up on the message which my assistant just left, please call me to discuss the hearing which is tentatively scheduled for May 22, 2013. As you may be aware from the declaration filed today, your client fabricated evidence in pursuit of a fraud and in violation of a court order to provide discovery. This is a demonstrable fact.

Respectfully, it is time for Mr. White to come clean. Further efforts at perpetuating this fraud, and further perjured testimony will likely be met with severe sanctions by the judge. As a criminal defense lawyer, you probably know much better than me the penalties for perjury and fraud upon the court.

My number is 305.298.1750. I look forward to your call.

Best regards,  
Keith

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**From:** Crystal Sebastian  
**Sent:** Thursday, May 16, 2013 10:11 AM  
**To:** Ronald A Smith Esquire <RonaldASmithEsq@aol.com>  
**Cc:** copyright; Chris Fiore <cfiore@fiorebarber.com>  
**Subject:** Bellwether - Malibu Media, LLC v. Does 1, 6, 13, 14, 16

Mr. Smith,

I hope all is well.  
We will be moving for an enlargement of time, up to and including Monday, May 20, 2013, to submit Plaintiff's proposed jury instructions. Kindly advise by 3:00 PM today if you oppose same.

Thank you,

LIPSCOMB,  
EISENBERG &  
BAKER, PL

Crystal Sebastian  
Paralegal  
Lipscomb, Eisenberg & Baker, PL  
One Biscayne Tower  
2 South Biscayne Boulevard  
Suite 3800  
Miami, FL 33131  
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Email: [CSebastian@LEBFIRM.com](mailto:CSebastian@LEBFIRM.com)

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**Ronald A Smith Esquire**

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**From:** <ecf\_paed@paed.uscourts.gov>  
**To:** <paedmail@paed.uscourts.gov>  
**Sent:** Wednesday, May 15, 2013 6:41 PM  
**Subject:** Activity in Case 2:12-cv-02078-MMB MALIBU MEDIA, LLC v. JOHN DOES 1,6,13,14 AND 16 Motion for Summary Judgment

**This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.**

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**United States District Court**

**Eastern District of Pennsylvania**

**Notice of Electronic Filing**

The following transaction was entered by LIPSCOMB, MICHAEL on 5/15/2013 at 6:41 PM EDT and filed on 5/15/2013

**Case Name:** MALIBU MEDIA, LLC v. JOHN DOES 1,6,13,14 AND 16

**Case Number:** 2:12-cv-02078-MMB

**Filer:** MALIBU MEDIA, LLC

**Document Number:** 136

**Docket Text:**

**MOTION for Summary Judgment as to John Doe 16's Counterclaim and Affirmative Defenses filed by MALIBU MEDIA, LLC.. (Attachments: # (1) Exhibit A, # (2) Exhibit B, # (3) Exhibit C, # (4) Exhibit D)(LIPSCOMB, MICHAEL)**

**2:12-cv-02078-MMB Notice has been electronically mailed to:**

A. JORDAN RUSHIE jordan@fishtownlaw.com, lawyers@fishtownlaw.com, leo@fishtownlaw.com

CHRISTOPHER P. FIORE cfiore@fiorebarber.com

COREY M. OSBORN cosborn@tlgattorneys.com, dcrane@tlgattorneys.com, lmakasi@tlgattorneys.com

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MICHAEL KEITH LIPSCOMB klipscomb@lebfir.com



RONALD A. SMITH ronaldasmithesq@aol.com

**2:12-cv-02078-MMB Notice will not be electronically mailed to:**

The following document(s) are associated with this transaction:

**Document description:** Main Document

**Original filename:** n/a

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1001600548 [Date=5/15/2013] [FileNumber=11651496-0] [a5c5e5d3411db39b090320a3c4c016c3c907f77b8370bcb28c8645c83ff67d0665b6e63140d96f9508ddca2b46d26dd6fdefe30bd433562ad4351df59d17e3b8]]

**Document description:** Exhibit A

**Original filename:** n/a

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1001600548 [Date=5/15/2013] [FileNumber=11651496-1] [944b2b2302c8c450e3871ec27db91717f38b81948bfc421d94ad885c8516749114735d75d786eb1275e19c3379613e776781d34269235636ef41751dc5604fcc]]

**Document description:** Exhibit B

**Original filename:** n/a

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1001600548 [Date=5/15/2013] [FileNumber=11651496-2] [95ab3f1494535436182f51299197ef13bb3068adc915ca2c9e892d48b9cb603137f65f0c794135c3aeb0b3f33e046f838512890f462b382e6f23541b6a23ec96]]

**Document description:** Exhibit C

**Original filename:** n/a

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1001600548 [Date=5/15/2013] [FileNumber=11651496-3] [76fb110e894e8206b79936a172e624c264a9fca26e5b9dac04bf7e61fd77369e70609215028c159213e3712038e1bc8514c7b22f4da8acd904efd0520a489200]]

**Document description:** Exhibit D

**Original filename:** n/a

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1001600548 [Date=5/15/2013] [FileNumber=11651496-4] [4b94ed9043e6a9aba0ce7be97a17b34f9084e848f6dcc8ade4e2c73d42bad40438de1b21991721093028ce2d485c5041761924c7b675daa60f9fa91cc82ad8b9]]

